

CAPTAIN REX T. SHUPE  
DELVECCHIA vs FRONTIER AIRLINES

December 04, 2019

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1	UNITED STATES DISTRICT COURT	1	I N D E X
2	FOR THE DISTRICT OF NEVADA	2	WITNESS
3	-o0o-		PAGE
4		2	CAPTAIN REX SHUPE
5	PETER DELVECCHIA, et al.,	3	
6	Plaintiff,	4	Examination by Mr. McKay
7	v.	71	Examination by Mr. Shelke
8	FRONTIER AIRLINES, INC.,		
9	et al.,		
10	Defendants.		
11			
12			
13			
14	VIDEOTAPED DEPOSITION OF CAPTAIN REX SHUPE		
15	Taken on December 4, 2109		
16	at 8:29 a.m.		
17			
18			
19	ADVANCED REPORTING SOLUTIONS		E X H I B I T S
20	159 West Broadway		(None)
21	Broadway Lofts, Suite 100		
22	Salt Lake City, Utah 84101		
23			
24	REPORTED BY: Michelle Mallonee, RPR, CSR		
25			
Page 2		Page 4	
1	A P P E A R A N C E S	1	P R O C E E D I N G S
2		2	-o0o-
3	For Plaintiff:	3	THE VIDEOGRAPHER: This is Media No. 1 in the
4	John D. McKay, Esq.	4	recorded video deposition of Rex Shupe, in the matter of
5	PARK AVENUE LAW, LLC	5	Peter Delvecchia versus Frontier Airlines, being heard
6	1255 East Logan Avenue	6	before the U.S. District Court for the District of
7	Salt Lake City, Utah 84105	7	Nevada, Case 2:19-cv-01322.
8	(800) 391-3654	8	This deposition is being held at Advanced
9	johndmckayatty@gmail.com	9	Reporting in Salt Lake City, Utah. Today's date is
10		10	December 4th, 2019. The time is 8:29.
11	For Defendant:	11	Will counsel please state who they are and who
12	Tara Shelke, Esq.	12	they represent.
13	ADLER MURPHY & MCQUILLEN LLP	13	MR. MCKAY: I'm John McKay of Park Avenue Law,
14	20 South Clark Street, Suite 2500	14	and I represent the plaintiffs, Peter and A.D.
15	Chicago, Illinois 60603	15	MS. SHELKE: I'm Tara Shelke, last name spelled
16	(312) 345-0700	16	S-H-E-L-K-E, and I represent Defendant Frontier Airlines.
17	tshelke@amm-law.com	17	THE VIDEOGRAPHER: Will the court reporter
18		18	please swear in the witness.
19	ALSO PRESENT:	19	
20	Alyse Largin, Videographer	20	REX SHUPE,
21	* * *	21	having been first duly sworn,
22		22	was examined and testified as follows:
23		23	EXAMINATION
24		24	BY MR. MCKAY:
25		25	Q. Would you state your full name, please.

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<p style="text-align: right;">Page 13</p> <p>1 flight, so we probably took a break and just took 2 advantage. Because to get set up for bathroom break is 3 a -- you know, it's a little more involved than it used 4 to be. So, yeah. 5 Q. Right. Right. 6 A. We probably -- I can't -- to be honest with you, 7 I can't remember if I went out for a bathroom break. But 8 it makes sense that we probably took advantage of it and 9 took a bathroom break as well. 10 Q. Okay. And I -- I believe you just said you were 11 a couple hours into the flight? 12 A. I believe so, yeah. 13 Q. Okay. Do you recall what time the flight 14 departed from Raleigh -- 15 A. No. 16 Q. No. Okay. 17 Do you recall how long the flight is? 18 A. Raleigh to Vegas, depending on the winds, is 19 usually a four, four-and-a-half hour flight. 20 Q. Is this a -- a flight that you make frequently? 21 A. Yeah, we make that one pretty -- pretty often. 22 Q. Okay. Are you based in Las Vegas? 23 A. Based in Las Vegas. 24 Q. All right. Does that mean that a significant 25 number of your flights depart Las Vegas?</p>	<p style="text-align: right;">Page 15</p> <p>1 A. That's when Chelsie mentioned about the -- 2 the -- their concern in the back between A.D. and 3 Mr. Delvecch- ...? 4 Q. Delvecchia. 5 A. Delvecchia. 6 Q. Yeah. Now, let me just get into the specific 7 details. 8 A. Okay. 9 Q. You say she mentioned her concern. 10 But what specifically did she say to you? 11 A. Well, she talked about -- you know, and the 12 details are fuzzy. But she talked about she was 13 observing inappropriate touching between the adult and 14 the minor. 15 Q. Okay. And when you say "inappropriate 16 touching," certainly you must remember the details of 17 what she said was inappropriate touching? 18 A. Well, yeah, she mentioned that there was a 19 stroking on the face, and she -- you know, and her tone 20 of voice was such that, yeah, there was -- she was 21 concerned about -- you know, I don't -- she didn't give 22 too many details other than there was touching on the 23 face. She may have -- I don't remember exactly. She may 24 have remembered that -- what Scott had said about there 25 may have been the hand near the crotch area.</p>
<p style="text-align: right;">Page 14</p> <p>1 A. Yes. 2 Q. Originate in Las Vegas, I should have said? 3 A. That's right, yeah. 4 Q. Okay. So you have to deadhead up there to start 5 your flights? 6 A. That's correct. 7 Q. Okay. All right. So Chelsie called you, said 8 that she needed to come in -- 9 A. Yes. 10 Q. -- to speak with you? 11 Did she say anything else? 12 A. No. 13 Q. Okay. I presume the next thing that happened 14 was that she did enter the cockpit? 15 A. Umm-hmm. 16 Q. You have to say "yes" or "no." 17 A. Yes, sir. Yes. 18 Q. You don't have to say "sir," but you do have to 19 say yes or no. 20 A. Yes. 21 Q. All right. So when Chelsie came into the 22 cockpit, then, she was present, you were present, and 23 First Officer Mullin was present? 24 A. Correct. 25 Q. Okay. What did Chelsie say?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Okay. When she first came in? 2 A. Like I said, I don't remember the -- 3 specifically the timeline on what she divulged. 4 Q. Okay. 5 A. But we were talking about -- yeah, the 6 inappropriate touching between the adult and the -- and 7 the minor. 8 Q. And one of the details that she provided to you 9 was this, just -- just from the looks of things, this was 10 an unusual father/son combination, right? 11 A. Well, we didn't -- I didn't even know then that 12 it was a father and son combination. 13 Q. Okay. That it was an unusual couple, let's say, 14 that one was white, one was black? 15 A. No, I didn't know one was white, one was black. 16 Q. You didn't know that at any time? 17 A. Well, when I exited the cockpit towards the end 18 of the flight. 19 Q. Okay. 20 A. Yeah. 21 Q. All right. We'll get to that. But -- all 22 right. 23 So she says that there is a -- a man traveling 24 with a child? 25 A. Yes.</p>

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<p style="text-align: right;">Page 21</p> <p>1 Q. Okay. And now Chelsie has --</p> <p>2 A. And --</p> <p>3 Q. Go ahead.</p> <p>4 A. And -- and I'm sure we'll get into this, but I</p> <p>5 also called back and chatted with the other two flight</p> <p>6 attendants.</p> <p>7 Q. Okay. Let's start with Chelsie and Scott.</p> <p>8 A. Okay.</p> <p>9 Q. And then we'll add the other two.</p> <p>10 So Chelsie at this point has told you that she</p> <p>11 was concerned about stroking of the face that she saw --</p> <p>12 A. Yes.</p> <p>13 Q. -- correct? Okay.</p> <p>14 And then Scott comes in, and Scott says what?</p> <p>15 A. Well, Scott described the -- the hand near the</p> <p>16 crotch area and how inappropriate it seemed to Scott.</p> <p>17 Q. What exactly did he say?</p> <p>18 A. Well, I can't remember exactly what he says.</p> <p>19 Q. All right.</p> <p>20 A. But he says that the -- that the hand -- he</p> <p>21 talked about the -- the inappropriate touching. What --</p> <p>22 what that constituted for him, I don't -- but he did --</p> <p>23 he was specific about the hand being near the groin area</p> <p>24 of the minor.</p> <p>25 Q. Okay. So it is a hand that is in the vicinity</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. Well, let me put it this way. If somebody is</p> <p>2 sound asleep, their actions would be involuntary,</p> <p>3 correct?</p> <p>4 A. Correct. Yeah.</p> <p>5 Q. Okay. So you wouldn't consider that somebody is</p> <p>6 sexually molesting someone in their sleep?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. So if Scott had told you that these two</p> <p>9 people were asleep, presumably you would have said, well,</p> <p>10 it's probably not an active action if the person is</p> <p>11 asleep, right?</p> <p>12 A. Right.</p> <p>13 Q. Okay. And -- and if the other person is -- is</p> <p>14 asleep as well, if two people are asleep, there's</p> <p>15 probably not a -- a -- a sexual molestation situation</p> <p>16 going on, right?</p> <p>17 A. That sounds right.</p> <p>18 Q. Okay. So it's important that Scott left out the</p> <p>19 fact that the two people were asleep?</p> <p>20 A. If that's what was happening, yes.</p> <p>21 Q. Okay. So now, at this point, you've received</p> <p>22 information from Chelsie that she didn't agree with the</p> <p>23 stroking of the face, and you've received information</p> <p>24 from Scott that there was a hand near the crotch. And</p> <p>25 based on that information, you and First Officer Mullin,</p>
<p style="text-align: right;">Page 22</p> <p>1 of the groin area is what you understood?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. He didn't mention that the hand was --</p> <p>4 was palpating or groping or anything along those lines?</p> <p>5 A. Those words were not used.</p> <p>6 Q. Okay. Anything similar to that, grabbing,</p> <p>7 stroking, anything like that?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Okay.</p> <p>10 A. What I recall was the hand was inappropriately</p> <p>11 in the -- in the groin/crotch area of the minor.</p> <p>12 Q. Did he tell you that he observed both the adult</p> <p>13 and the minor were asleep at the time?</p> <p>14 A. Not that I recall.</p> <p>15 Q. So are you saying that he might have and you</p> <p>16 don't recall, or that he didn't?</p> <p>17 A. No. It's not on my impression that they were --</p> <p>18 that he relayed to us that they were asleep.</p> <p>19 Q. Would that have made a difference to you?</p> <p>20 A. I don't know.</p> <p>21 Q. Well, would you -- would you consider that</p> <p>22 somebody is inappropriate -- is being inappropriate if</p> <p>23 they were sound asleep and their hand was in the vicinity</p> <p>24 of somebody's groin?</p> <p>25 A. Restate that question one more time.</p>	<p style="text-align: right;">Page 24</p> <p>1 jointly with the flight attendants, made a decision to</p> <p>2 separate the child from the adult?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. Had you ever made a decision like that</p> <p>5 before?</p> <p>6 A. No. And let me add to that, that it wasn't just</p> <p>7 those two.</p> <p>8 Q. Okay.</p> <p>9 A. For us to -- to take action with a passenger, we</p> <p>10 don't take that lightly. And so I also called back the</p> <p>11 third flight attendant and the fourth one and talked to</p> <p>12 them individually on the phone.</p> <p>13 Q. Okay.</p> <p>14 A. "What did you see?"</p> <p>15 Q. Okay. So let me just make sure we get the names</p> <p>16 here.</p> <p>17 So that's Amanda Nichol and Anna Bond, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. And what -- and -- and did you have them</p> <p>20 both on the phone at the same time?</p> <p>21 A. No.</p> <p>22 Q. No. Okay.</p> <p>23 So who did you speak with first?</p> <p>24 A. The third, the C flight attendant.</p> <p>25 Q. The C flight attendant is Bond?</p>

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<p style="text-align: right;">Page 29</p> <p>1 A. Contact?</p> <p>2 Q. I mean, they hadn't rung their bell, they hadn't</p> <p>3 said something to a flight attendant, anything along</p> <p>4 those lines?</p> <p>5 A. I don't know.</p> <p>6 Q. Okay.</p> <p>7 A. I wouldn't know who -- when the passengers ring</p> <p>8 the bell. We don't --</p> <p>9 Q. All right.</p> <p>10 A. -- we don't know.</p> <p>11 Q. But you, presumably, knew that the -- the child</p> <p>12 had not complained to anyone about any inappropriate</p> <p>13 touching?</p> <p>14 A. I don't know if the child complained or not.</p> <p>15 With all the information I'd received from the flight</p> <p>16 attendants, I'd -- I -- it wasn't told me that the child</p> <p>17 had complained.</p> <p>18 Q. Okay. Now, after concluding the telephone or</p> <p>19 intercom discussions with Bond and Nichol, what did you</p> <p>20 do next?</p> <p>21 A. Well, that's when we decided yes, let's separate</p> <p>22 the two.</p> <p>23 Q. And you say "we" decided. How -- how did</p> <p>24 that -- I mean, you're the captain.</p> <p>25 A. Well, sure.</p>	<p style="text-align: right;">Page 31</p> <p>1 We do have what we call "threat levels" in the</p> <p>2 back between the passengers. There's Threat Level 1,</p> <p>3 which is, you know -- and it escalates up to Threat Level</p> <p>4 4.</p> <p>5 Q. Okay. Well, let's go through those, since you</p> <p>6 brought them up.</p> <p>7 What is -- what defines Threat Level 1?</p> <p>8 A. I believe Threat Level 1 is verbal</p> <p>9 noncompliance.</p> <p>10 Q. So a passenger who verbally, meaning with words,</p> <p>11 is refusing to comply with --</p> <p>12 A. Comply with --</p> <p>13 Q. -- instructions from --</p> <p>14 A. -- instructions from the flight attendants,</p> <p>15 correct.</p> <p>16 Q. Okay. We both have to talk --</p> <p>17 A. Sorry. Yes.</p> <p>18 Q. -- at different times?</p> <p>19 A. Yes. I'm sorry.</p> <p>20 Q. Okay. So let's go through that again just so</p> <p>21 it's clear.</p> <p>22 Threat Level 1, then, is a passenger who, using</p> <p>23 words, refuses to comply with an instruction from a crew</p> <p>24 member, correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. So it's your decision.</p> <p>2 A. The buck stops with me, right?</p> <p>3 Q. Right.</p> <p>4 A. Yeah.</p> <p>5 Q. Right. But you -- you discussed it with all</p> <p>6 four present?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And -- and I gather everybody agreed that</p> <p>9 the right thing to do is -- is to separate the child from</p> <p>10 the father?</p> <p>11 A. Correct.</p> <p>12 Q. All right. And again, you didn't know that it</p> <p>13 was the father at this time?</p> <p>14 A. I did not know.</p> <p>15 Q. Okay. Now, I have had produced to me a page</p> <p>16 from the flight attendant manual.</p> <p>17 Do you -- do you receive the flight attendant</p> <p>18 manual?</p> <p>19 A. No.</p> <p>20 Q. Okay. So what procedures, SOPs, or whatever</p> <p>21 guides your decision making in a situation such as this,</p> <p>22 especially one that you've never encountered before?</p> <p>23 A. Well, I mean, we don't have a lot of guidance</p> <p>24 when it comes to the -- the sexual -- this -- sexual in</p> <p>25 nature or inappropriate touching in the back.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Okay. What is Threat Level 2?</p> <p>2 A. Threat Level 2, I mean, I need to pull out my --</p> <p>3 my FOM, my Flight Operations Manual, to get all the</p> <p>4 details. But that's when the escalation involves</p> <p>5 physical type -- pushing, hitting.</p> <p>6 Q. Okay. All right. And is the FOM something that</p> <p>7 you have with you in the cockpit to refer to if this</p> <p>8 comes up?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Now, so Threat Level 2, then, is</p> <p>11 physical.</p> <p>12 What's Threat Level 3?</p> <p>13 A. Threat Level 3 is -- like I said, I have to take</p> <p>14 a look at it to see exactly, but that's where it's</p> <p>15 escalating to threats, physical harm --</p> <p>16 Q. Okay.</p> <p>17 A. -- physical injury.</p> <p>18 Q. Threats of physical harm or physical injury?</p> <p>19 A. Yeah.</p> <p>20 Q. Okay. And what is Threat Level 4?</p> <p>21 A. That's attempted breach of the cockpit.</p> <p>22 Hijacking.</p> <p>23 Q. Sure.</p> <p>24 A. And like I said, there's a -- there's a list in</p> <p>25 there to -- to get all of the articulations that we would</p>